

Applicant: Michael John O'Conn or

SN: 10/749,449

REMARKS

Claims 1-20 are pending in his application. Claims 1-20 have been canceled, and new claims 21-34 are presented herewith. No new matter has been added and reconsideration of the application is respectfully requested.

Claim Rejections Under 35 U.S.C. Section 112

In the September 22, 2005 Office Action, the Examiner rejects claims 2, and 5-20 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

More specifically, the Examiner states that claims 2 and 5-20 are indefinite because it is unclear if the applicant intends to claim a shoe or solely the protector. Claims 2 and 5-20 have been canceled and new claims 21-34 have been added to more distinctly claim the subject matter.

In addition, claim 8-10 and 17-19 stand rejected for failing to recite any additional structure. Claims 8-10 and 17-19 have been canceled, accordingly, this rejection is moot.

Accordingly, all claims comply with 35 U.S.C. §112, second paragraph and the applicant respectfully request withdrawal of this rejection.

Claim Rejections Under 35 U.S.C. Section 102

The Examiner next rejects claims 1-3, 8-12, and 17-19 under 35 U.S.C. §102(b) as being clearly anticipated by Fuerst (U.S. Patent 5,465,509). More specifically, the Examiner states that Fuerst discloses a shoe with a heel protector with eyelets. In addition, this shoe can be an athletic shoe, work boot, dress shoe or any type of shoe. Claims 1-3, 8-12 and 17-19 have been canceled. Accordingly, this rejection is moot. Unlike Fuerst, new claims 21-34 are directed to a shoe having a permanently integrated heel protector.

Claims 1-3, 8-12, and 17-19 are rejected under 35 U.S.C. §102(b) as being anticipated by Pasternak (U.S. Patent 4,670,998). More specifically, the Examiner states that Pasternak discloses a shoe with a protector that has side portions with apertures as claimed in the present application. Claims 1-3, 8-12 and 17-19 have been canceled. Accordingly, this rejection is moot.

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Unlike Pasternak, new claims 21-34 are directed to a shoe having a permanently integrated heel protector.

Claim Rejections Under 35 U.S.C. Section 103

Claims 4 and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over Fuerst in view of either Bradley (U.S. Des. 192,208) or Gazzano (U.S. Patent 5,408,761).

Claims 4 and 13 have been canceled. Accordingly, this rejection is moot.

Claims 5-7, 14-16, and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Pasternak (U.S. Patent 4,670,953) in view of Belyea (U.S. Patent 2,083,938).

Claims 5-7, 14-16, and 20 have been canceled. Accordingly, this rejection is moot.

Conclusion

Applicant respectfully assert that new claims 21-34 are in condition for allowance, and a Notice of Allowance is earnestly solicited.

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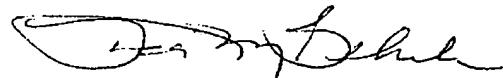
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Extension of Time

Pursuant to 37 C.F.R. §1.17(i)(2), Applicants request a two-month extension of time from December 22, 2005 to February 22, 2005 to respond to the September 22, 2005 Office Action. Accordingly, Applicants attach herewith a credit card authorization form authorizing payment of fees for the two-month extension of time.

The Examiner is invited to contact the undersigned at the telephone number appearing below should the Examiner have any questions regarding the prosecution of this application.

Respectfully submitted,



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Atty. Docket No. 920.001

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